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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91210813
Party	Defendant Mike Ghorbani
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Date	12/03/2014
Attachments	answer_filing.pdf(4678966 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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SATA GmbH & Co. KG	)	
Petitioner	)	Mark: EURO
v.	)	Registration No.: 3428295
Mike Ghorbani	)	Cancellation No. 92/059849
Respondent	)	(as consolidated)
	)	Opposition No. 91210813
	)	Opposition No. 91217915

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**RESPONDENT'S ANSWER TO PETITION FOR CANCELLATION OF**

**REGISTRATION NO.: 3428295**

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

Dear Sir:

Respondent Mike Ghorbani (hereinafter "Respondent"), files this Answer and Affirmative Defenses denying the allegations of the Petition for Cancellation filed by SATA GmbH & Co. KG (hereinafter "Petitioner" or "SATA"), stating as follows:

1. Admitted.

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ANSWER AND AFFIRMATIVE DEFENSES FILED BY MIKE GHORBANI

2. Respondent lacks sufficient information with which to form a belief as to the truth or falsity of the allegations contained in paragraph 2 of the Petition for Cancellation, and, on that basis, denies each and every allegation therein.

3. Respondent lacks sufficient information with which to form a belief as to the truth or falsity of the allegations contained in paragraph 3 of the Petition for Cancellation, and, on that basis, denies each and every allegation therein.

4. Respondent denies that its spray guns are inferior and are sold to the same potential consumers. Respondent lacks sufficient information with which to form a belief as to the truth or falsity of the additional allegations contained in paragraph 4 of the Petition for Cancellation.

5. Respondent admits that the Petitioner and the Respondent sell paint spray guns and there is a public interest in refusing registration of certain marks. Respondent denies each and every remaining allegation contain in Paragraph 5 of the Petition for Cancellation.

6. Respondent denies each and every allegation contain in Paragraph 6 of the Petition for Cancellation.

7. Respondent denies each and every allegation contain in Paragraph 7 of the Petition for Cancellation.

8. Respondent denies each and every allegation contain in Paragraph 8 of the Petition for Cancellation.

9. Admitted as to the present time.

10. Respondent denies each and every allegation contain in Paragraph 10 of the Petition for Cancellation.

11. Respondent denies each and every allegation contain in Paragraph 11 of the Petition for Cancellation.

12. Respondent denies each and every allegation contain in Paragraph 12 of the Petition for Cancellation.

13. Respondent denies each and every allegation contain in Paragraph 13 of the Petition for Cancellation.

14. Respondent denies each and every allegation contain in Paragraph 14 of the Petition for Cancellation.

15. Respondent denies each and every allegation contain in Paragraph 15 of the Petition for Cancellation.

16. Respondent denies each and every allegation contain in Paragraph 16 of the Petition for Cancellation.

17. Respondent denies each and every allegation contain in Paragraph 17 of the Petition for Cancellation.

18. Respondent denies each and every allegation contain in Paragraph 18 of the Petition for Cancellation.

19. Respondent denies each and every allegation contain in Paragraph 19 of the Petition for Cancellation.

20. Respondent denies each and every allegation contain in Paragraph 20 of the Petition for Cancellation.

WHEREFORE, Mike Ghorbani requests that the registered mark not be cancelled and that this Petition for Cancellation be dismissed in favor of Respondent.



## **AFFIRMATIVE DEFENSES**

21. In further denial of the Petition for Cancellation, Respondent states the following affirmative defenses:

### **FIRST AFFIRMATIVE DEFENSE**

(The Mark "EURO" Is Not Descriptive)

22. The Mark "EURO" is not descriptive of a particular geographic place.

### **SECOND AFFIRMATIVE DEFENSE**

(Lack of Geographic Significance)

23. The primary significance of "EURO" is not a generally known geographic place.

### **THIRD AFFIRMATIVE DEFENSE**

(Lack of Association and/or Confusion)

24. Purchasers would not likely believe that the goods or services originate in Europe. There is no association between spray guns (and other goods and services) and Europe. Furthermore, purchasers of spray guns (and other goods and services) are sophisticated and unlikely to be confused.

### **FOURTH AFFIRMATIVE DEFENSE**

(Lack of Materiality)

25. Any misrepresentation would not be a material factor for a substantial portion of relevant consumers in deciding whether to buy the goods or use the services. The presence of the Mark "EURO" would not be a material factor for a substantial portion of relevant consumers in deciding whether to buy the goods or use the services.

**FIFTH AFFIRMATIVE DEFENSE**

(The Mark "EURO" Is Not Misdescriptive)

26. The Mark "EURO" is not misdescriptive because the primary significance of "Euro" is not a generally known geographic place, Purchasers would not likely believe that the goods or services originate in Europe, and/or any misrepresentation would not be a material factor for a substantial portion of relevant consumers in deciding whether to buy the goods or use the services.

**SIXTH AFFIRMATIVE DEFENSE**

(Unclean hands)

27. Upon Information and Belief, it is believed that the Petitioner's spray guns are made from components that are made in countries other than Germany

and/or Europe. The Petitioner advertises its products as “German Engineered” despite its products being made outside of Germany.

### **SEVENTH AFFIRMATIVE DEFENSE**

(Lack of Standing)

28. On Information and Belief, it is believed that the Petitioner's spray guns are made from components that are manufactured outside of Germany and/or Europe. The Petitioner has no standing to challenge the registered mark when it is believed that the Petitioner uses components that are made outside of Germany and/or Europe.

### **EIGHTH AFFIRMATIVE DEFENSE**

(Good Faith)

29. At all times relevant, Respondent acted in good faith towards Petitioner and has used the subject mark in good faith, and all actions that Respondent took with respect to Petitioner of which affected Petitioner, if any, were undertaken in good faith and for legitimate business reasons.

### **NINTH AFFIRMATIVE DEFENSE**

(Incontestability)



30. The mark "EURO" has obtained incontestable status and cannot be contested for being geographically descriptive.

**TENTH AFFIRMATIVE DEFENSE**

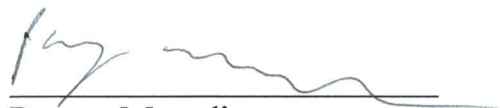
(Additional Defenses)

31. Respondent's discovery and investigation is continuing. Accordingly, Respondent reserves the right to assert additional defenses as they become known as to all claims asserted against them.

WHEREFORE, Respondent respectfully requests that this Cancellation be terminated, and that Registration No. 3,428,295 not be cancelled.

Respectfully submitted,

Respondent Mike Ghorbani



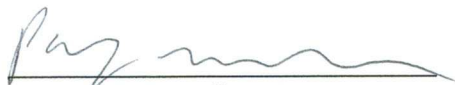
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310-307-4755

Date: December 3, 2014

## CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing has been served on Thomas J. Vande Sande by mailing said copy on Dec. 3, 2014 via First Class Mail, postage prepaid to:

Thomas J. Vande Sande  
Hall & Vande Sande, LLC  
10220 River Road, Suite 200  
Potomac, MD 20854



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Date: December 3, 2014